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SOUTHERN DISTRICT OF CALIFORNIA

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

DARREN LEE PATTON, JR.,

Petitioner,

vs.

JEFFREY BEARD, Secretary,

Respondent.

CASE NO. 14-CV-569-BEN (BLM)

**ORDER ADOPTING REPORT AND  
RECOMMENDATION AND  
GRANTING MOTION TO STAY**

[Docket Nos. 17, 21]

Petitioner Darren Lee Patton, Jr., a state prisoner proceeding pro se, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. (Docket No. 1.) On December 22, 2014, Petitioner filed a Motion to Stay. (Docket No. 17.) On January 22, 2015, Respondent filed an Opposition and on February 9, 2015 Petitioner filed a Reply. (Docket Nos. 19, 20.) On February 27, 2015, the Magistrate Judge issued a thoughtful and thorough Report and Recommendation recommending that the Motion to Stay be granted pursuant to *Kelly v. Small*, 315 F.3d 1063 (9th Cir. 2003), *overruled on other grounds by Robbins v. Carey*, 481 F.3d 1143 (9th Cir. 2007). (Docket No. 21.) Objections to the Report and Recommendation were due by March 20, 2015. (*Id.*) No objections have been filed. For the reasons stated below, the Report and Recommendation is **ADOPTED.**

A district judge “may accept, reject, or modify the recommended disposition” of a magistrate judge on a dispositive matter. Fed. R. Civ. P. 72(b)(3); *see also* 28

1 U.S.C. § 636(b)(1). “[T]he district judge must determine de novo any part of the  
2 [report and recommendation] that has been properly objected to.” Fed. R. Civ. P.  
3 72(b)(3). However, “[t]he statute makes it clear that the district judge must review  
4 the magistrate judge’s findings and recommendations de novo *if objection is made*,  
5 but not otherwise.” *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir.  
6 2003) (en banc); *see also Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir.  
7 2005). “Neither the Constitution nor the statute requires a district judge to review,  
8 de novo, findings and recommendations that the parties themselves accept as  
9 correct.” *Reyna-Tapia*, 328 F.3d at 1121.

10 In the absence of any objections, the Court fully **ADOPTS** the Report and  
11 Recommendation. The Motion to Stay is **GRANTED**.

12 **IT IS SO ORDERED.**

13  
14 Dated: April 12, 2015

  
HON. ROGER T. BENITEZ  
United States District Judge